

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

TIPTON INTERNATIONAL, INC.

PLAINTIFF,

v.

VETBIZCORP LLC AND
SAMUEL CODY

DEFENDANTS.

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CIVIL ACTION NO. 6:20-cv-554

**DEFENDANTS' VETBIZCORP, LLC AND SAMUEL CODY'S
NOTICE OF REMOVAL OF ACTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendants VETBIZCORP, LLC and SAMUEL CODY ("Defendants") and files this Notice of Removal of Action ("Notice of Removal") and state:

I. STATEMENT OF THE CASE

1. On February 7, 2020, Plaintiff Tipton International, Inc. ("Plaintiff") filed an Original Petition against Defendants in the lawsuit styled *Tipton International, Inc. v. Vetbizcorp, LLC and Samuel Cody*, Cause No. 2020-479-5; pending in the District Court of the 414th Judicial District of McLennan County, Texas. Plaintiff's Original Petition asserted claims against Defendants for breach of contract and attorney's fees.

2. At the time of the filing of the state court action and at the time of the filing of the Notice of Removal, Plaintiff was and is a citizen of the State of Texas. Plaintiff resides and does business in McLennan County, Texas.

3. Defendant Vetbizcorp, LLC was, at the time of the filing of this action, and still is, a foreign limited liability company organized and existing under the laws of the state of Nevada, whose home office is located in North Carolina.

4. Defendant Samuel Cody is an individual nonresident of Texas, whose residence is located in North Carolina.

II. REMOVAL BASED ON DIVERSITY

5. This is a civil action of which the Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed pursuant to the provisions of 28 U.S.C. §1441(b) where the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs (as demonstrated in Plaintiff's Original Petition) and is between citizens of different states.

III. AMOUNT IN CONTROVERSY REQUIREMENT SATISFIED

6. Plaintiff's Original Petition states that Plaintiff seeks monetary relief over \$100,000 but not more than \$200,000, which satisfies the amount in controversy requirement of 28 U.S.C. §1441(b). *See Exhibit No. 1, p. 1.*

IV. TIMELINESS OF REMOVAL

7. Removal is timely under 28 U.S.C. §1446(b) because less than thirty (30) days have passed since Plaintiff's Original Petition was served upon Defendants Vetbizcorp, LLC and Samuel Cody. Specifically, Plaintiff served Defendants by certified mail, return receipt requested through the Texas Secretary of State. Defendants received service of process of Plaintiff's Original Petition from the Texas Secretary of State on May 27, 2020.

V. ATTACHMENT OF STATE COURT PLEADINGS

8. A true and correct copy of all process, pleadings and orders, including the Plaintiff's Original Petition, that were filed in this case during the pendency of proceedings in state court are

attached as Exhibit No. 1 and incorporated by reference herein. There have been no other proceedings in state court.

VI. NOTICE OF REMOVAL GIVEN TO STATE COURT

9. This Notice of Removal is being filed with the 414th Judicial District Court of McLennan County, Texas on the date of this filing with the United States District Court for the Western District of Texas, Waco Division. A copy of the notice provided to the state court is attached to Exhibit No. 1 in support of this Notice of Removal.

VII. NON-WAIVER

10. Nothing in this Notice of Removal is intended as a waiver or relinquishment of Defendants' right to assert any defense or affirmative matter.

VIII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that further proceedings in the state court action be discontinued, that Case No. 2020-479-5, filed and pending in the District Court of the 414th Judicial District, McLennan County, Texas, be removed to the United States District Court for the Western District of Texas, Waco Division, and that this Court assume full jurisdiction over this action as provided by law.

Dated: June 22, 2020

Respectfully submitted,

JOHNSON HOBBS SQUIRES, LLP

/s/ Ryan C. Johnson

Ryan C. Johnson
State Bar No. 24048574
Aaron M. Wilkerson
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing pleading has been served on all counsel of record pursuant to the Federal Rules of Civil Procedure on this the 22nd day of June 2020, as follows:

MARCUS MATAGA

PAKIS, GIOTES, PAGE & BURLESON, P.C.
400 Austin Ave., Ste. 400
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Waco, Texas 76703
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ATTORNEYS FOR PLAINTIFF

/s/ Ryan C. Johnson
Ryan C. Johnson

EXHIBIT 1

TIPTON INTERNATIONAL, INC.

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v.

VETBIZCORP LLC AND
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DEFENDANTS.

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IN THE DISTRICT COURT

OF MCLENNAN COUNTY

414TH JUDICIAL DISTRICT

DEFENDANTS' NOTICE OF REMOVAL TO FEDERAL COURT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendants VETBIZCORP LLC and SAMUEL CODY ("Defendants") and give notice to the 414th Judicial District Court of McLennan County, Texas, that Cause No. 2020-479-5 has been removed to the United States District Court for the Western District of Texas, Waco Division. A copy of the Notice of Removal of Action, which is being filed with the Federal Court, is attached as Exhibit "A" to this notice.

Defendants further certify that counsel for Plaintiff has been notified of this removal and has been served a copy of this Notice of Removal of Action.

Dated: June 22, 2020

Respectfully submitted,

JOHNSON HOBBS SQUIRES, LLP

/s/ Ryan C. Johnson

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